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Memorandum

To: Sen. Michael Sirotkin, Economic Development, Housing and General Affairs Committee

From: Tom Kavet

CC: Steve Klein, Graham Campbell, Joint Fiscal Office

Date: May 4, 2021

Re: H.159 Capital Investment Grant Program Comments as Requested

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Following testimony before the Committee today and per your request, I have briefly summarized a few of my comments and provided suggested language changes for the Capital Investment Grant program in H.159 based on draft 3.1, highlighted in yellow.

The magnitude of this program is extraordinary, as has been so much of the vast federal funding made available to the State in connection with the COVID crisis. Earlier funding opportunities for business support were aimed at distressed firms, but with little time for planning and disbursement, early audits of the State grant programs indicate they were poorly targeted, resulting in considerable waste and less funding to those firms truly in need. With more time to plan and execute with this round of funding, it is worth taking the time to direct further expenditures where they can be most impactful.

This involves objective measurement of net economic benefits, the expenditure of funds where they will truly make a difference, and transparency in the award process. The objective measurement of net economic benefits is best performed with analytic cost-benefit tools employed in the VEGI program, with some modification. This minimizes set-up costs and insures reliable and consistent measurement of State benefits.

Although administered by ACCD, I believe the grant approval process should be controlled by a committee with both legislative and Administration appointees, similar to VEPC.

In order to insure that the grants truly make a difference, there must be evidence that without the grants, the projects would not occur. Spending public funds for private projects that would occur without them is unnecessary and wasteful. This should be included in the application and project review process, along with other project attributes and potential public benefits.

As was demonstrated in the original VEPC EATI program, the transfer of public money to private firms is fraught with potential abuse and requires as much transparency as possible in the application, review, approval and post-award follow-up processes. There is no reason to withhold significant awardee project information critical to the assessment of net public benefits from the public. A request for public funding requires some degree of public disclosure regarding the need and use of the funds.

Aside from the CIGP program, the renewed ERG program in H.159 is improved by linking the award to the lesser of "adjusted tax loss, three months of fixed expenses, or $150,000."

Please let me know if there is any further review of this legislation you or the Committee would like.

(c) On or before January 15, 2022, the Agency of Commerce and Community Development shall report to the Senate Committee on Economic Development, Housing and General Affairs and to the House Committee on Commerce and Economic Development concerning any recommended changes to the program created in 10 V.S.A § as created in this act, including any residency requirements or other further changes on new employee eligibility.

Sec. 21. REPEAL

The following are repealed:

(1) 2018 Acts and Resolves No. 197, Sec. 1, as amended by 2019 Acts and Resolves No. 80, Sec. 15 (New Remote Worker Grant Program); and

(2) 2019 Acts and Resolves No. 80, Sec. 12 (New Worker Relocation Incentive Program).

* * * Capital Investment Grants * * *

Sec. 22. CAPITAL INVESTMENT GRANT PROGRAM

(a) Creation; purpose; regional outreach.

(1) The Agency of Commerce and Community Development shall use the $11,000,000 appropriated to the Department of Economic Development in Sec. G.302(a)(6) of H.439 to design and implement a capital investment grant program consistent with this section.

(2) The purpose of the program is to make funding available for transformational projects that will provide each region of the State with the

opportunity to attract businesses, retain existing businesses, create jobs, and invest in their communities by encouraging capital investments and economic growth.

(3) The Agency shall collaborate with other State agencies, regional development corporations, regional planning commissions, institutions of higher education, trade unions, housing and other non-profits, community action agencies, recreational and conservation organizations, and other community partners to identify potential regional applicants and projects to ensure the distribution of grants throughout the regions of the State.

(b) Eligible applicants.

(1) To be eligible for a grant an applicant shall meet the following criteria:

(A) The applicant is located within this State.

(B) The applicant is:

(i)(I) a for-profit entity with not less than a 10 percent equity interest in the project; or

(II) a nonprofit entity; and

(ii) grant funding from the Program represents not more than 50 percent of the total project cost.

(C) The applicant demonstrates:

(i) community and regional support for the project;

(ii) that without grant funding the project would not occur;

(iii) leveraging of additional sources of funding from local, State, or federal economic development programs; and

(iv) an ability to manage the project, with requisite experience and a plan for fiscal viability.

(2) The following are ineligible to apply for a grant:

(A) a State or local government-operated business;

(B) a municipality;

(C) a business that, together with any affiliated business, owns or operates more than 20 locations, regardless of whether those locations do business under the same name or within the same industry; and DELETE?

(D) a publicly-traded company. DELETE?

(c) Awards; amount; eligible uses.

(1) An award shall not exceed the lesser of $500,000 or the estimated net State fiscal impact of the project based on Agency modeling.

(2) A recipient may use grant funds for the acquisition of property and equipment, construction, renovation, and related capital expenses.

(3) A recipient may combine grant funds with funding from other sources but shall not use grant funds from multiple sources for the same costs within the same project.

(4) The Agency shall release grant funds upon determining that the applicant has met all Program conditions and requirements.

(d) Data model; approval.

(1) The Agency shall collaborate with the Legislative Economist to develop a consensus cost-benefit model for use in calilbrating award levels and assessing potential net State fiscal, economic, and societal impacts of proposals and prioritize them based on the results. This model will be consistent with the current VEGI Cost-Benefit Model and may utilize it in whole or part.

(2) The Agency shall present the proposed cost-benefit and award application, review and approval process to the Joint Fiscal Committee for its approval not later than September 1, 2021.

(e) Application process; decisions; awards.

(1) The Agency shall accept applications on a rolling basis for three-month periods and shall review and consider for approval the group of applications it has received as of the conclusion of each three-month period.

(2) Using the data model and methodology approved by the Joint Fiscal Committee, the Agency shall analyze the information provided in an application to ascertain that without the proposed public assistance the project would not occur and estimate the net State fiscal impact of the project using the cost-benefit model, in addition to other economic metrics, such as:

(A) increase to grand list value;

(B) improvements to supply chain;

(C) jobs impact, including the number and quality of jobs; and

(D) increase to State GDP.

(3) All grants shall be approved through a Committee process which shall include the Secretaries, or their designees, of the Agency of Commerce and Community Development, the Agency of Natural Resources and the Agency of Administration and four appointed members representing community interests made, two by the Speaker of the House and two by the Senate Committee on Committees. This Committee shall review, analyze, and approve projects for funding based on compelling evidence the project would not occur in whole or part without the grant, the estimated net State fiscal impact of a project and on other contributing factors, including:

(A) transformational nature of the project for the region;

(B) project readiness, quality, and demonstrated collaboration with stakeholders and other funding sources;

(C) alignment and consistency with regional plans and priorities; and

(D) creation and retention of workforce opportunities.

(f) Grant agreements; post award monitoring. If selected by the Secretary, the applicant and the Agency shall execute a grant agreement that includes audit provisions and minimum requirements for the maintenance and accessibility of records that ensures that the Agency, a designee of the legislature named by a legislative committee, and the Auditor of Accounts have access and authority to monitor awards. The Legislative Economist shall work closely with the Agency, as needed, on model runs during the life of the program, with particular attention to unusual modelling situations that require model adjustment or variation. Any significant change to the cost-benefit model shall be reported to the Joint Fiscal Committee for their review and approval. The Legislative Economist shall maintain a copy of the final cost-benefit model and access to all model input information necessary to perform an independent analysis of the cost-benefit calculations for all applications considered and shall from time to time report to the Joint Fiscal Committee on the operation of the model and program. The Legislative Economist shall abide by any confidentiality terms affecting any of the data used in the model or program.

(g) Report. On or before December 15, 2021 the Agency shall submit a report to the House Committee on Commerce and Economic Development and the Senate Committee on Economic Development, Housing and General Affairs concerning the implementation of this section, including:

(1) a description of the implementation the program;

(2) the promotion and marketing of the program;

(3) an analysis of the utilization and performance of the program, including the projected net fiscal impacts and other qualitative and quantitative returns on investment in the program based on available data and modeling.

* * * Economic Recovery Grants * * *

Sec. 23. ECONOMIC RECOVERY GRANTS

(a) The Agency of Commerce and Community Development shall use the $20,000,000 appropriated to it in Sec. G.302(a)(7) of H.439 for Economic Recovery grants and the amounts appropriated to it in 2021 Acts and Resolves No. 9, Sec. 3, to provide grants to businesses consistent with the requirements of that Sec. 3 and further subject to the following:

(1) The value of a grant shall not exceed the lesser of a business's adjusted tax loss, three months of fixed expenses, or $150,000.00.

(2) The Agency shall defer final calculation and payment of grant awards for a reasonable period of time to determine the availability of COVID-19-related financial assistance from other State and federal sources.

(3) The Agency may adjust the calculation of tax loss for non-COVID-19-related items, including carry forward losses and depreciation.

(b) On or before December 15, 2021 the Agency shall submit a report to the House Committee on Commerce and Economic Development and the Senate Committee on Economic Development, Housing and General Affairs